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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
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		10/734,004	December 10, 2003
		First Named Inventor	
		Joy Francine Jordan	
		Art Unit	Examiner
		1771	Arti R. Singh
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>58,662</u></p>		<p> Signature Ryan P. Harris Typed or printed name 864-271-1592 Telephone number December 31, 2007 Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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PATENT
ATTORNEY DOCKET NO: KCX-1392 (17442)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: Jordan et al.)	Examiner: Arti R. Singh
)	
Serial No: 10/734,004)	Art Unit: 1771
)	
Filed: December 10, 2003)	Confirmation No: 9403
)	
Title: Durable Hydrophilic Treatment)	Deposit Account No: 04-1403
for a Biodegradable Polymeric)	
Substrate)	Customer No: 22827

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In conjunction with the filing of a Notice of Appeal, Applicants respectfully request review of the basis of the rejections of the pending claims of the above-captioned application. A Final Office Action dated October 1, 2007 has been issued.

Claims 18, 22, and 24-36 are currently pending in the present application, including independent claim 18. Independent claim 18 is directed to a biodegradable fibrous web comprising biodegradable polymer fibers. The web has a durable hydrophilic surface coated with a hydrophilic polymeric material in an amount of from about 0.01 to about 2.0 percent by weight, based on the dry weight of the web. The hydrophilic polymeric material is a polysaccharide or a modified polysaccharide. The hydrophilic polymeric material will not significantly suppress the surface tension of an aqueous medium with which the web may come in contact.

I. Independent claim 18 is patentable over the cited references

In the Office Action, independent claim 18 was rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,440,556 to Matsui, et al. in view of U.S. Patent No. 6,051,249 to Samuelsen and further in view of U.S. Patent No. 6,011,194 to Buglino, et al. Matsui, et al. is directed to a conjugate fiber formed from aliphatic polyester components (A) and (B) having different crystallinities. In one embodiment, for example, a conjugated fiber is formed that includes a high crystalline aliphatic polyester A3 and a composition B3 that includes both a low crystalline aliphatic polyester and a hydrophilic compound. (Cols. 33-34). The hydrophilic compound of the composition B3 enhances the sensitivity of the conjugated fiber to water and thereby allows it to be divided upon alkali treatment into fine fibers. (Cols. 36-37). The hydrophilic compound may include a polyether or organic compound having a sulfo, carboxyl, phosphate, or amino group. (Col. 34, ll. 28-40). As correctly noted by the Examiner, however, Matsui, et al. fails to disclose various limitations of independent claim 18, including a coating that contains a polysaccharide or a modified polysaccharide.

Nevertheless, the Office Action cited Samuelsen in combination with Matsui, et al. and Buglino, et al. in attempt to render obvious independent claim 18. Samuelsen is directed to a dressing (e.g., release liner) that contains a carrier film and an adhesive. Samuelsen lists numerous polymers that may be used to form the carrier film, such as polyolefins, polyesters, polyurethanes, polyamides, etc. One of the many polymers in this list is a thermoplastic polysaccharide. Based on this recitation of a polysaccharide, the Office Action concluded that it would have been obvious to employ "the coating of

Samuelsen on the fibers/fabric of Matsui et al. . . . to create a laminate that has superior wicking properties.” Applicants respectfully note, however that the polysaccharide cursorily mentioned in Samuelsen is only used to construct the carrier film – it is not a *coating* for a fibrous web. One of ordinary skill in the art would certainly not have been motivated to selectively choose one of many possible polymers used to construct a carrier film for use as a coating on the conjugate fiber of Matsui, et al.

Regardless, even if the references are somehow combined, they still fail to disclose each limitation of independent claim 18. For example, as noted above, independent claim 18 is directed to a fibrous web that has a surface *coated* with a hydrophilic polymeric material. Matsui, et al. discloses conjugate fibers formed from multiple components, one of which may contain a hydrophilic compound. The component that includes the hydrophilic compound, however, forms part of the fiber and is *not a coating* on a fibrous web. Matsui, et al. discloses:

The present inventors have found that when an aliphatic polyester which is relatively subject to an alkali hydrolysis is incorporated with a hydrophilic compound and it is conjugated in a single filament with a crystalline aliphatic polyester having a melting point of not less than 140°C., a conjugated fiber which is easily dividable by a chemical treatment is obtained. Col. 33, lines 24-30.

Thus, Matsui, et al. fails to teach a *coating* as required by independent claim 18.

Furthermore, as correctly noted in the Office Action, Samuelsen fails to disclose a polysaccharide or a modified polysaccharide coated in an amount of from about 0.01 to about 2.0 percent by weight, based on the dry weight of the web as further required by independent claim 18. The Examiner states “that optimizing the amount of coating is a result effective variable. The greater the amount of coating or the lesser the amount

of coating directly affects the strength of the fabric and/or laminate. Therefore it would have been obvious. . . .” Applicants submit, however, that the coating amount is not an obvious design choice. As disclosed in the specification, the coating is food safe and can be used in food storage products as well as in medical devices which are used on and in the human body. Furthermore, the treatments impart fast wettability, durability during storage, durability during use which allows for rewetting of the surface after a first insult, having efficacy at elevated temperatures, are tasteless, are non-foaming, and are food safe. ¶ [0070]

Additionally, the Office Action cited Buglino, et al. in combination with Matsui, et al. and Samuelsen. Buglino, et al. is directed to a wound dressing. Buglino, et al., however, fails to remedy the deficiencies of Matsui, et al. and Samuelsen as noted above.

II. Dependent claims 22 and 24-36 are patentable over the cited references

For at least the reasons set forth above regarding independent claim 18, Applicants respectfully submit that the corresponding dependent claims also patentably define over the references cited. However, the patentability of the dependent claims certainly does not hinge on the patentability of the independent claims. In particular, it is believed that some or all of these claims may possess features that are independently patentable, regardless of the patentability of the independent claims. For instance, dependent claims 25 and 26 further limit the hydrophilic polymeric coating amount to from about 0.05 to about 1.0 percent and 0.1 to about 0.5 percent respectively. Furthermore, dependent claim 36 requires that the hydrophilic polymeric material is a

modified polysaccharide and the modified polysaccharide is ethyl hydroxyethyl cellulose. None of these limitations are disclosed in any of the cited references.

III. The provisional rejection on the ground of nonstatutory obviousness-type double patenting

The Final Office Action provisionally rejected claims 18, 22, and 24-36 under the judicially created doctrine of obviousness-type double patenting in view of U.S.

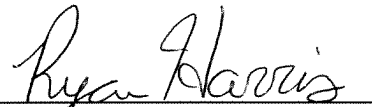
Application Serial No. 10/734,006. Applicants agree to submit a terminal disclaimer to obviate this rejection once this application is otherwise in condition for allowance.

It is believed that the present application is in condition for allowance and favorable action, therefore, is respectfully requested.

Please charge any additional fees required by this Request to Deposit Account No. 04-1403.

Respectfully requested,

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